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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/223,875	12/31/1998	RICHARD C. FENWICK JR.	ONCO-003	4405
7590	12/15/2006		EXAMINER	
Paul A Ragusa Baker Botts LLP 30 Rockefeller Plaza New York, NY 10112			BROWN, RUEBEN M	
			ART UNIT	PAPER NUMBER
			2623	

DATE MAILED: 12/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/223,875	FENWICK ET AL.
Examiner	Art Unit	
Reuben M. Brown	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1)  Responsive to communication(s) filed on 22 September 2006.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

- 4)  Claim(s) 1-27 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-27 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
    Paper No(s)/Mail Date \_\_\_\_\_  
  
4)  Interview Summary (PTO-413)  
    Paper No(s)/Mail Date. \_\_\_\_\_  
5)  Notice of Informal Patent Application  
6)  Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. Examiner points out that the claimed feature of, 'presenting a menu containing a selection of programs to the user's audiovisual display monitor with the ACD', does not require the that ACD is exclusively used to present the menu of programs. The passage found in col. 5, lines 51-67 of Duso discussing selection of stream servers 21 is also pointed out, "...and the amount of random access memory in each stream servers, are selected for desired performance and capacity characteristics, such as the number of concurrent users to be services, the number of independent multi-media programs to be accessed concurrently, and the desired latency of the access to the multi-media programs". The "number of users concurrently serviced" is interpreted to refer to the number of users concurrently serviced by the system, i.e., combination of stream servers 21, as opposed to for each particular stream server. 21

However, even if the stream servers 21 in Duso are enabled to serve multiple clients concurrently, Fig. 13 clearly discloses at least one embodiment in which each stream server 91 & 92, are only servicing a single client #1, #2, respectively, at a time, which meets the claimed subject matter.

*Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hwang, (U.S. Pat # 6,049,823), in view of Duso, (U.S. Pat 3 5,892,915).

Considering claim 1, the claimed method of presenting an audiovisual signal to a user's audiovisual display monitor comprising receiving a command from the user and responding to the command by assigning an assignable computing device to the particular user only is met by the disclosure of Hwang that when a viewer requests a private session, the system allocates a particular Channel-Processor to that user, col. 13, lines 40-61 & col. 17, lines 15-40. Hwang teaches that each private viewing session requires a dedicated Channel-Processor for each customer.

As for the additionally claimed feature of establishing a communications link between the user's audiovisual device and the ACD, the above disclosure of Hwang reads on the subject matter; also see col. 16, lines 5-8.

The Channel-processor in Hwang reads on an ACD, since it is disclosed that it is a PC, see col. 4, lines 52-60 & col. 13, lines 1-5.

As for the claimed feature of the 'responding to the command by assigning an assignable computing device, ACD, to the particular user only, such that the ACD is not available for concurrent communication with other users', Hwang is not clear that the device is assigned to a single user without concurrent communication with other users. Nevertheless, the claimed feature is met by the disclosure of Duso that in at least one embodiment, a particular stream server (21,91), which includes a movie streamed into server buffer 91, may be allocated to a particular user only, see col. 6, lines 46-5 & col. 20, lines 21-55. In particular, Fig. 13 of Duso teaches that a stream server 91 may be allocated to and used by one and only one particular client #1, during the distribution of the particular movie. If the pre-fetched movie is to be transmitted concurrently to another client #2, then the instant movie is pre-fetched to storage space 47 and is transmitted separately to stream servers 91 & 92, respectively, col. 20, lines 41-56. Duso teaches that the stream server 91 corresponds with stream server 21 and as such is embodied as a high-end computer, for example with a microprocessor and random access memory, col. 5, lines 51-60, which reads on the claimed subject matter, of an ACD. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Hwang with the feature

stream server system of Duso, at least for the advantage of servicing multiple clients from the same cache memory 23, without always fetching from the disk array 47, even though each client is singularly linked to a particular stream server 21, col. 18, lines 16-30.

As for the amended claimed feature, 'wherein the programs are stored on one or more ACDs', the claimed subject matter reads on the particular move being buffered into the buffer space encompassed with stream server(s) 91,92, see Fig. 13.

Regarding the feature of presenting a menu containing a selection of video programs to the user's audiovisual display monitor with the ACD, selecting one of the video programs and routing the instant selected video program to the user's audiovisual display monitor, Hwang teaches that once a private viewing session is activated, that the viewer is enabled to select and receive movies on demand from a menu, see col. 16, lines 61-67 & col. 17, lines 50-67 thru col. 18, lines 1-25. Hwang furthermore discloses that on a private viewing channel, the user can order any on-demand services for movies, games and shopping; see col. 1, lines 55-60. Thus the claimed feature is met by the combination of Hwang & Duso.

Considering claims 2-3 & 17-18, Hwang teaches an MCI interface to play and control MPEG movies, such that the control panel may be overlaid on top of the movie; see col. 18, lines 5-24.

Considering claims 4-5, 10 & 19-20, Hwang teaches that video programming may be transmitted to viewers using well known RF modulation technology; see col. 6, lines 40-43; col. 9, lines 34-52 & col. 13, lines 64-67 thru col. 17, line 1.

Considering claims 6-8 & 21-23, Hwang teaches that the user may order currently available movies using a series of catalog pages; col. 1, lines 55-60; col. 17, lines 55-67 thru col. 18, lines 1-25.

Considering claims 9 & 24, the claimed feature of the menus reflecting a set of user preferences reads on the viewer's selection of catalog pages, for instance of categories when selecting movies; see col. 17, lines 55-60.

Considering claim 11, the recited subject matter is inherent in Hwang.

Considering claim 12, 15 & 25, the claimed host-computing device reads on the operation of the iTV server, col. 17, lines 15-61.

Considering claims 13 & 26, the claimed step reads on the viewer selecting a different viewing mode and being assigned a different Channel-processor in Hwang, see col. 17, lines 1-25.

Considering claims 14 & 27, the claimed feature is broad enough to read on the customer tuning to a regular channel, before requesting a private viewing session.

Considering claim 16, the claimed apparatus for presenting an audiovisual signal to a user's audiovisual monitor, comprising a programming subsystem reads on the iTV stations in Hwang, col. 11, lines 4-24. The claimed Room Communication Subsystem, RCS reads on the operation of the iTV stations, (Fig. 3a; Fig. 5; Fig. 6a&b; col. 7, lines 22-45).

The claimed Site Management Subsystem, SMS also reads on the iTV station & iTV server; see Fig. 2.

As for the recitation of the programming subsystem including a plurality of serving devices communicating with the user's display monitor over the RCS; and the SMS assigning an ACD audiovisual serving device to a particular user to present a menu containing a selection of video programs to the particular user's display monitor over the RCS, the disclosure of Hwang teaches that a viewer may select a private viewing session to retrieve movies, such that the iTV server/stations assign particular Channel-processor to individual users during the private viewing sessions, (Abstract; col. 13, lines 18-54; col. 16, lines 1-10; col. 17).

As for the amended claimed feature, "such that the ACD is not available, for concurrent communication with others", as pointed above in the rejection of claim 1, Duso teaches the claimed subject matter, Fig. 13; col. 20, lines 21-55.

***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's claims.

A) Ahmad Teaches that during the playback of a movie by a client, the instant movie cannot be accessed by any other clients, col. 14, lines 50-53.

B) McCalley Teaches that in order to select video content, a single session server 20 is assigned to one and only one subscriber, col. 3, lines 29-37.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

**Any response to this action should be mailed to:**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

**or faxed to:**

(571) 273-8300, (for formal communications intended for entry)

**Or:**

(571) 273-7290 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F(8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Reuben M. Brown

  
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